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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9 WESTERN DIVISION
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11 LOUIS LERMA,) No. CV 11-07996-PSG (VBK)
12)
13 Petitioner,) ORDER ACCEPTING FINDINGS AND
14) RECOMMENDATIONS OF UNITED STATES
15 v.) MAGISTRATE JUDGE
16)
17 R. PHILIP GUTIERREZ,)
18)
19 Respondent.)
20 _____)
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22 Pursuant to 28 U.S.C. §636, the Court has reviewed the Petition
23 for Writ of Habeas Corpus ("Petition"), the records and files herein,
24 and the Report and Recommendation of the United States Magistrate
25 Judge ("Report").
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1 **IT IS ORDERED** that: (1) the Court accepts the findings and
2 recommendations of the Magistrate Judge, and (2) the Court declines to
3 issue a Certificate of Appealability ("COA").¹

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5 DATED: 4/16/12

PHILIP S. GUTIERREZ

PHILIP S. GUTIERREZ

UNITED STATES DISTRICT JUDGE

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21 ¹ Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the
22 applicant has made a substantial showing of the denial of a
23 constitutional right." The Supreme Court has held that, to obtain a
24 Certificate of Appealability under §2253(c), a habeas petitioner must
25 show that "reasonable jurists could debate whether (or, for that
26 matter, agree that) the petition should have been resolved in a
27 different manner or that the issues presented were 'adequate to
28 deserve encouragement to proceed further'." Slack v. McDaniel, 529
U.S. 473, 483-84, 120 S.Ct. 1595 (2000)(internal quotation marks
omitted); see also Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct.
1029 (2003). After review of Petitioner's contentions herein, this
Court concludes that Petitioner has not made a substantial showing of
the denial of a constitutional right, as is required to support the
issuance of a COA.